

LS7-0190a

11 June 1957

MEMORANDUM FOR: Assistant Deputy Director (Support)

SUBJECT: Conflicts of Interest

REFERENCE: Memorandum to General Counsel from Chief,
Regulations Control Staff, same subject,
dated 6 February 1957

1. Attached is a proposed regulation on conflicts of interest, prepared in response to a request from Chief, Regulations Control Staff contained in the referenced memorandum.

2. The legal considerations traditionally addressed to this problem have focused on those conflicts between the public interest--that is, the Government's interest--and the economic interest of the employee. Thus the statutes restrict official conduct which might lead to an unwarranted economic benefit, and also the acceptance of economic benefit which might lead to unwarranted official conduct.

3. Perhaps the greatest concern has been expressed about the situation in which a Government employee may influence, or even transact, business done by the Government with a private business concern in which he has some interest. He perceives a divided duty, and occasionally it is his fidelity to the Government which is compromised.

4. Beyond the statutory proscriptions, this regulation seeks to follow the philosophy expressed by the Attorney General in 40 Ops. A.G. 187, two excerpts of which are quoted below.

"Apart from statute, there are certain principles of fair dealing which have the force of law and which are applicable to all officers of the Government. A public office is a public trust. No public officer can lawfully engage in business activities which are incompatible with the duties of his office. He cannot in his private or official character enter into engagements in which he has, or can have, a conflicting personal interest. He cannot allow his public duties to be neglected by reason of attention to his private affairs. Such conflicts of interest are not tolerated in the case of any private fiduciary, and they are doubly proscribed for a public trustee.

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"In controlling the private business activities of their officers, the executive departments and agencies of the United States are not limited by the prohibitory statutes and elementary legal principles of fiduciary conduct outlined above. The head of any executive department or agency within the Government has the power to prescribe such rules and regulations governing the conduct of private business affairs by his subordinates as he may determine. This power is the normal attribute of any executive charged with the responsibility of administering a public or private business through subordinates. It is an obvious and necessary complement of the right to hire and discharge. Subject to such policies as the President may from time to time prescribe, it would therefore be proper for the chief executive of any department or agency to formulate rules as broad as he deems necessary in the light of the particular ethical and administrative problems arising out of the work under his supervision.

5. The ethical considerations of this regulation are clear from the regulation itself. The broad language is designed not only to inform the employee fully as to the broadness of the Agency's policy on conflicts of interest but also to assure that every doubtful case becomes the object of a determination both as to legality and as to propriety.

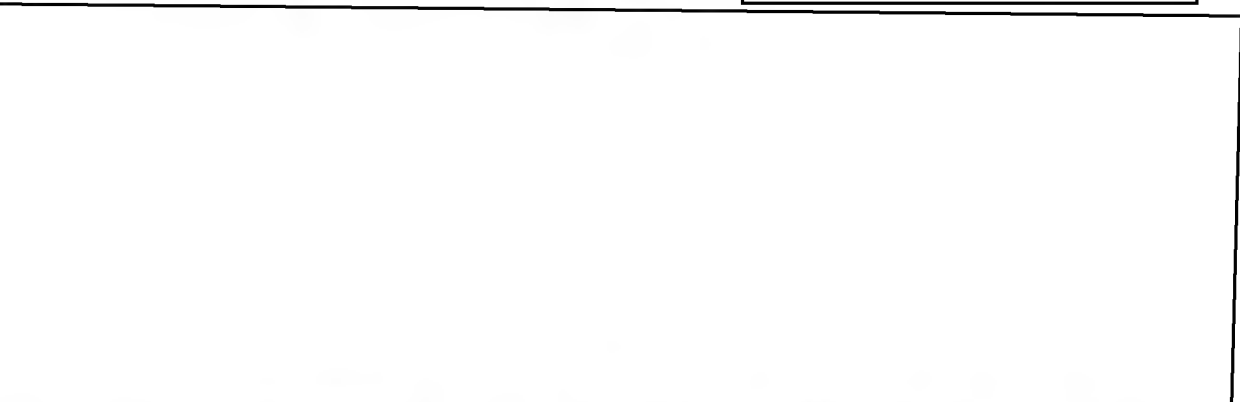
6. This regulation is of general interest and applies to all employees.

7. This issuance recaps, and embodies,



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9. It is recommended that this proposed issuance be approved for coordination with DD/I, DD/P, and the Inspector General.


Office of General Counsel

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Attachment

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